

Nos. 23-334

In the Supreme Court of the United States

DEPARTMENT OF STATE, ET AL.,

Petitioners,

v.

SANDRA MUÑOZ, ET AL.,

Respondents.

On Writ of Certiorari to the United States
Court of Appeals for the Ninth Circuit

**BRIEF FOR HEAL REFUGEE HEALTH & ASYLUM
COLLABORATIVE AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

David M. Zionts
Counsel of Record
John A. Boeglin
Mariam Azhar
Emily A. Vernon
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
dzionts@cov.com
(202) 662-6000

March 28, 2024

Counsel for Amicus Curiae

TABLE OF CONTENTS

	Page
INTEREST OF THE <i>AMICUS CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT	1
ARGUMENT	2
I. Spousal Separation Has Significant Detrimental Health Consequences for U.S. Citizens Married to Non-Citizens.	2
II. Spousal Separation Has Negative Health Effects on U.S. Citizen Children.	6
III. Attainment of Legal Immigration Status by Non-Citizens Leads to Improved Health Outcomes for their U.S. Citizen Family Members.	9
CONCLUSION	11

TABLE OF AUTHORITIES

	Page(s)
Academic Authorities	
Ozaay Ali-Naqvi, et al., <i>Exploring the Impact of Family Separation on Refugee Mental Health: A Systematic Review and Meta-narrative Analysis</i> , 94 <i>Psychiatric Q.</i> 61 (2023).....	6
Manon Andres, <i>Distress, Support, and Relationship Satisfaction During Military-Induced Separations: A Longitudinal Study Among Spouses of Dutch Deployed Military Personnel</i> , 11 <i>Psych. Servs.</i> 22 (2014)	3
Laurie J. Bauman, Ellen J. Silver, & Ruth E.K. Stein, <i>Cumulative Social Disadvantage and Child Health</i> , 117 <i>Pediatrics</i> 1321 (2006)	9
Johayra Bouza et al., <i>The Science is Clear: Separating Families has Long-term Damaging Psychological and Health Consequences for Children, Families, and Communities</i> , <i>Soc’y Rsch. Child Dev.</i> 1 (June 20, 2018)	7, 8

Michelle Brané et al., <i>Family Separation as a Result of Immigration Policies in the United States, in Childhood and Migration in Central and North America: Causes, Policies, Practices, and Challenges</i> 428 (Feb. 2015)	5, 8
Yuqing Guo, <i>Emotional and Behavioral Health Needs in Elementary School Students in an Underserved Hispanic Community</i> , 35 <i>J. Sch. Nurs.</i> 2019 128 (2019)	9
Jens Hainmueller et al., <i>Protecting Unauthorized Immigrant Mothers Improves Their Children's Mental Health</i> , 357 <i>Science</i> 6355 (Sept. 8, 2017)	10
Anna R. Kahkoska et al., <i>Sociodemographic Associations of Longitudinal Adiposity in Youth with Type 1 Diabetes</i> , 19 <i>Pediatr. Diabetes</i> 1429, (2018)	9
Roger Kobak, Kristyn Zajac, & Stephanie D. Madsen, <i>Disruptions, Reparative Processes, and Psychopathology Theoretical and Clinical Implications, in Handbook of Attachment: Theory, Research, and Clinical Applications</i> 25 (2016)	7

- Kim Korinek, Peter Loebach,
Bussarawan Teerawichitchainan,
Physical and Mental Health Consequences of War-Related Stressors Among Older Adults: An Analysis of Posttraumatic Stress Disorder and Arthritis in Northern Vietnamese War Survivors, 72 *J. Gerontol. Soc. Sci.* 1090 (2017)3
- Belinda J. Liddell et al., *Mechanisms Underlying the Mental Health Impact of Family Separation on Resettled Refugees*, 55 *Aust. & New Zealand J. Psychiatry* 699 (2021)7
- Irina Lut et al., *Health Outcomes, Healthcare Use and Development in Children Born Into or Growing Up in Single-parent Households: A Systematic Review Study Protocol*, 11 *BMJ Open* 1 (2021)8
- Alexander Miller et al., *Understanding the Mental Health Consequences of Family Separation for Refugees: Implications for Policy and Practice*, 88 *Am. J. Orthopsychiatry* 26 (2018)6
- Jenna Nobles, Luis Rubalcava, Graciela Teruel, *After Spouses Depart: Emotional Wellbeing Among Nonmigrant Mexican Mothers*, 132 *Soc. Sci. & Med.* 236 (2015).....4, 5

Alvin Kuowei Tay et al., <i>The Coherence and Correlates of Intermittent Explosive Disorder Amongst West Papuan Refugees Displaced to Papua New Guinea</i> , 177 <i>J. Affect Disord.</i> 86 (2015).....	6
Yuying Tong, Feinian Chen, Binbin Shu, <i>Spousal Migration and Married Adults' Psychological Distress in Rural China: The Roles of Intimacy, Autonomy and Responsibility</i> , 83 <i>Soc. Sci Rsch.</i> 102312 (2019)	4
Jacqueline M. Torres et al., <i>The Deferred Action for Childhood Arrivals Program and Birth Outcomes in California: a Quasi-Experimental Study</i> , 22 <i>BMC Public Health</i> 1449 (July 29, 2022)	10
Amanda Venta et al., <i>Family Separation at the US and Mexico Border Continues</i> , <i>J. Am. Acad. Child & Adolescent Psych.</i> 1 (2023)	5

INTEREST OF THE *AMICUS CURIAE*¹

Amicus curiae HEAL Refugee Health and Asylum Collaborative is a public health partnership among the Johns Hopkins University, Esperanza Center/Catholic Charities of Baltimore, Asylee Women Enterprise, and Loyola University Maryland. Through innovative partnerships and education, HEAL expands access to responsive health care and supportive services for immigrant survivors of torture and trauma seeking refuge in the United States.

HEAL Refugee Health and Asylum Collaborative has a strong interest in the legal framework governing the American immigration system in light of the significant consequences that system has on public health in the United States.²

**INTRODUCTION AND
SUMMARY OF ARGUMENT**

This case asks the Court to decide whether U.S. citizens have a constitutional right to due process in the immigrant visa applications filed on behalf of their non-citizen spouses. HEAL Refugee Health and Asylum Collaborative submits this brief to inform the

¹ No party or counsel for a party authored this brief in whole or in part, and no person other than *amicus curiae* or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

² The views expressed in this brief are those of *amicus curiae* and do not represent the views of its partner institutions.

Court of the powerful effects that its resolution of that question will have on the health of U.S. citizens.

Evidence-based research studies from the field of public health have made three key findings relevant to the question presented to the Court in this case. *First*, that U.S. citizens suffer negative health consequences when separated from their non-citizen spouses. *Second*, that spousal separation often has harmful downstream effects on U.S. citizen children in families with mixed immigration status. And *third*, that attainment of lawful immigration status by non-citizens married to U.S. citizens has a positive impact on the health of the entire family.

ARGUMENT

I. Spousal Separation Has Significant Detrimental Health Consequences for U.S. Citizens Married to Non-Citizens.

The profound health consequences of spousal separation have been extensively documented in the empirical medical literature. Of particular relevance to this case, separating U.S. citizens from their non-citizen spouses inflicts a heavy emotional, physical, and economic toll on U.S. citizens, leading to significant conditions like anxiety, insomnia, and isolation. Particularly in circumstances where the U.S. citizen's spouse remains in a country marked by insecurity, the spouse who remains in the U.S. can experience debilitating feelings of guilt and emotional distress.

Research on spousal separation from the military context is particularly instructive. One study on the effect of spousal separation lasting more than one year during the Vietnam War showed a positive correlation between such separations and the onset of post-traumatic stress disorder (PTSD).³ As this study shows, spousal separation can cause emotional and psychological disruptions with far-reaching consequences, such as the development of attachment disorders (*i.e.*, conditions that limit a person's ability to form secure emotional attachments with others).

Another study of military spouses in the Netherlands found that separation due to deployment led to marked increases in psychological distress, as well as decreases in relationship satisfaction and social support.⁴ Those results are particularly significant because the maximum duration of the military deployments at issue in the study was typically just six months—far shorter than the time that U.S. citizens may be separated from their non-citizen spouses due to the denial of a visa application.⁵

³ See Kim Korinek, Peter Loebach, Bussarawan Teerawichitchainan, *Physical and Mental Health Consequences of War-Related Stressors Among Older Adults: An Analysis of Posttraumatic Stress Disorder and Arthritis in Northern Vietnamese War Survivors*, 72 *J. Gerontol. Soc. Sci.* 1090, 1097 (2017).

⁴ See Manon Andres, *Distress, Support, and Relationship Satisfaction During Military-Induced Separations: A Longitudinal Study Among Spouses of Dutch Deployed Military Personnel*, 11 *Psych. Servs.* 22, 26 (2014).

⁵ See *id.*

Spousal separation resulting from labor migration has also been shown to impose significant strain on the non-migrant spouse. Results from one study of married couples in China showed that prolonged spousal separation due to labor migration was associated with an increase in depression for the left-behind spouse.⁶ Similarly, in Mexico, non-migrant spouses reported increased levels of emotional distress—including sadness, crying, and difficulty sleeping—which could not be explained by other factors, like changes to household resources or increased time spent on household management and caretaking.⁷ The same study found that depressive symptoms largely abate when spouses are reunited.⁸

There is every reason to believe that the detrimental health effects of spousal separation documented in the military and labor migration contexts apply with equal (if not greater) force to spousal separation caused by the denial of a visa. Unlike military deployment or migrant employment, which often have a fixed duration, spousal separation due to immigration status can be indefinite. Women who have been separated from their husbands at the U.S.-Mexico border, for instance, report “intense and prolonged psychological and emotional distress,

⁶ See Yuying Tong, Feinian Chen, Binbin Shu, *Spousal Migration and Married Adults' Psychological Distress in Rural China: The Roles of Intimacy, Autonomy and Responsibility*, 83 Soc. Sci. Resch. 102312, 1, 7 (2019).

⁷ See Jenna Nobles, Luis Rubalcava, Graciela Teruel, *After Spouses Depart: Emotional Wellbeing Among Nonmigrant Mexican Mothers*, 132 Soc. Sci. & Med. 236, 242 (2015).

⁸ See *id.*

coupled with profound isolation and a sense of loss.”⁹ That distress is compounded when wives finally receive a “long-awaited phone call from their husbands,” “only to realize the call [is] not coming from Texas but rather from Mexico” because their spouse has been deported.¹⁰ U.S. citizens who are not even provided reasons for the denial of their non-citizen spouse’s visa are likely to experience similar psychological distress.

Spousal separation can also lead to financial strain, with negative repercussions for the U.S. citizen spouse’s health. The loss of a non-citizen spouse’s ability to remain and work in the United States can put the U.S. citizen spouse below the poverty line, making it difficult for the citizen to meet his or her most basic health needs.¹¹

In short, spousal separation poses significant health harms not only to the non-citizen denied a visa, but also to the U.S. citizen spouse living in the United States.

⁹ Amanda Venta et al., *Family Separation at the US and Mexico Border Continues*, J. Am. Acad. Child & Adolescent Psych. 1 (2023).

¹⁰ *Id.* at 2.

¹¹ See Michelle Brané et al., *Family Separation as a Result of Immigration Policies in the United States*, in *Childhood and Migration in Central and North America: Causes, Policies, Practices, and Challenges* 428, 448 (Feb. 2015).

II. Spousal Separation Has Negative Health Effects on U.S. Citizen Children.

Spousal separation often has additional harmful effects on other family members, particularly U.S. citizen children, in families with mixed immigration status.

A systematic review of studies across several countries, including the United States, on the impact of separating family members on refugee mental health found that separation was correlated with PTSD, depression, anxiety, adult separation anxiety disorder, and lower levels of psychological quality of life.¹² Results from a study of West Papuan refugees likewise tied a history of family members being separated to an increase in intermittent explosive disorder (*i.e.*, repeated, sudden bouts of impulsive and aggressive behavior).¹³ Yet another study of refugees in Australia found that members of separated families were experiencing higher levels of PTSD and

¹² See Ozaay Ali-Naqvi, et al., *Exploring the Impact of Family Separation on Refugee Mental Health: A Systematic Review and Meta-narrative Analysis*, 94 *Psychiatric Q.* 61, 64-65 (2023); see also Alexander Miller et al., *Understanding the Mental Health Consequences of Family Separation for Refugees: Implications for Policy and Practice*, 88 *Am. J. Orthopsychiatry* 26, 33 (2018).

¹³ See Alvin Kuowei Tay et al., *The Coherence and Correlates of Intermittent Explosive Disorder Amongst West Papuan Refugees Displaced to Papua New Guinea*, 177 *J. Affect Disord.* 86, 93 (2015).

depression symptoms than those of non-separated families.¹⁴

These negative health effects of separating family members are especially pronounced in children. Parental separation, particularly in early childhood, is considered a “toxic stressor,” which can have permanent physical and psychological effects, including “anxiety, depression, post-traumatic stress disorder, lower IQ, obesity, immune system functioning, physical growth, cancer, heart and lung disease, stroke, and morbidity.”¹⁵ Children separated from parents can also experience “attachment disruptions” caused by “prolonged or severe threats to a caregiver’s availability or responsiveness,” which create a “fundamental fear and uncertainty about the caregiver’s availability or capacity to respond in moments of danger.”¹⁶ Such attachment disruptions in childhood, adolescence, or adulthood can lead to profound and lifelong relationship difficulties.¹⁷

¹⁴ See Belinda J. Liddell et al., *Mechanisms Underlying the Mental Health Impact of Family Separation on Resettled Refugees*, 55 Aust. & New Zealand J. Psychiatry 699, 706 (2021).

¹⁵ Johayra Bouza et al., *The Science is Clear: Separating Families has Long-term Damaging Psychological and Health Consequences for Children, Families, and Communities*, Soc’y Rsch. Child Dev. 1 (June 20, 2018).

¹⁶ Roger Kobak, Kristyn Zajac, & Stephanie D. Madsen, *Attachment Disruptions, Reparative Processes, and Psychopathology Theoretical and Clinical Implications*, in *Handbook of Attachment: Theory, Research, and Clinical Applications* 25, 28 (2016).

¹⁷ See *id.* at 33.

Children separated from a parent in the immigration context, in particular, may experience further emotional distress, developmental setbacks, and long-term negative psychological impacts. Studies have shown that disrupted attachments stemming from immigration separation can have far-reaching effects that last into adulthood, even if parent and child are subsequently reunited. Such children have been shown to experience difficulty with emotional attachment to their separated parent, self-esteem, and physical and psychological health.¹⁸

Separating spouses also often leads to the creation of single-parent households, which can entail educational disruption, economic insecurity, and many related negative health effects.¹⁹ For instance, the creation of single-parent households negatively affects birth outcomes, mortality, physical health, mental health and development, and healthcare use.²⁰ Children in single-parent households in the United States are less likely to be immunized, less likely to use preventive and illness-related health services regardless of insurance coverage, less likely to be insured, more likely to be in poor health, and more

¹⁸ See Johayra Bouza et al., *supra*, n.15.

¹⁹ See Michelle Brané et al., *supra* n. 11, at 448-451.

²⁰ See Irina Lut et al., *Health Outcomes, Healthcare Use and Development in Children Born Into or Growing Up in Single-parent Households: A Systematic Review Study Protocol*, 11 *BMJ Open* 1, 3 (2021).

likely to have a disability.²¹ Living in a single-parent household has also been associated with a higher risk of obesity among female youth living with type 1 diabetes²² and higher rates of emotional and behavioral problems, like depression.²³

Separating non-citizens from their U.S. citizen spouses thus risks serious negative health effects not only to the spouses themselves, but also to any U.S. citizen children the couple might have.

III. Attainment of Legal Immigration Status by Non-Citizens Leads to Improved Health Outcomes for their U.S. Citizen Family Members.

In addition to avoiding the health harms documented above associated with separating non-citizens from their U.S. citizen spouses, the attainment of legal immigration status by those non-citizens comes with its own health benefits. This is true not only for the non-citizen attaining legal status, but also for their U.S. citizen family members.

²¹ See Laurie J. Bauman, Ellen J. Silver, & Ruth E.K. Stein, *Cumulative Social Disadvantage and Child Health*, 117 *Pediatrics* 1321, 1322 (2006).

²² Anna R. Kahkoska et al., *Sociodemographic Associations of Longitudinal Adiposity in Youth with Type 1 Diabetes*, 19 *Pediatr. Diabetes* 1429, 1433 (2018).

²³ Yuqing Guo, *Emotional and Behavioral Health Needs in Elementary School Students in an Underserved Hispanic Community*, 35 *J. Sch. Nurs.* 2019 128, 131-133 (2019).

Providing legal status to non-citizens can significantly reduce the stress and anxiety that U.S. citizen family members experience due to uncertainty surrounding their ability to live with their non-citizen family members.

In one seminal study, researchers were able to show that a parent attaining immigration status—in this particular study, a mother’s enrollment in the Deferred Action for Childhood Arrivals (DACA) program—decreased adjustment and anxiety disorder diagnoses among the recipient’s children.²⁴ As these researchers explained, a lack of immigration status is “a substantial barrier to normal child development and perpetuates health inequalities through the intergenerational transmission of disadvantage.”²⁵ Granting legal status, the study showed, helped to reduce those barriers and inequalities for the children of the individuals gaining status.

In another study, researchers explored the relationship between participation in the DACA program and birth outcomes.²⁶ The study showed that participation in DACA was positively associated with greater birthweight and a lower risk of babies born

²⁴ See Jens Hainmueller et al., *Protecting Unauthorized Immigrant Mothers Improves Their Children’s Mental Health*, 357 *Science* 6355, 1041 (Sept. 8, 2017).

²⁵ *Id.*

²⁶ See Jacqueline M. Torres et al., *The Deferred Action for Childhood Arrivals Program and Birth Outcomes in California: a Quasi-Experimental Study*, 22 *BMC Public Health* 1449 (July 29, 2022).

small for their gestational age among individuals of Mexican origin.

As these studies confirm, granting a non-citizen legal status can thus improve not only their health, but also that of their U.S. citizen spouse, children, and other family members.

CONCLUSION

For the foregoing reasons, HEAL Refugee Health and Asylum Collaborative urges the Court to hold that U.S. citizens have a constitutionally protected liberty interest in the adjudication of their spouse's application for a U.S. immigrant visa.

Respectfully submitted,

David M. Zionts*
John A. Boeglin
Mariam Azhar
Emily A. Vernon
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
dzionts@cov.com
(202) 662-6000
**Counsel of Record*

March 28, 2024

Counsel for Amicus Curiae